



**OIL SPILL EXPEDITED SETTLEMENT AGREEMENT**  
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 7, 901 N. 5<sup>th</sup> ST., KANSAS CITY, KANSAS 66101**

04 FEB -4 AM 8:51

Respondent: Vance Brothers, Inc.  
5201 Brighton Ave.  
Kansas City, Missouri 64130-3196

DOCKET NO. CWA-07-2004-0039  
ENVIRONMENTAL PROTECTION  
AGENCY REGION VII  
REGIONAL HEARING CLERK

On April 19, 2002 Time 1:30 p.m.

At: Approximately one-half mile on Victoria Street in Lee's Summit, Missouri, Vance Brothers, Inc. (Respondent) discharged 200 gallons of oil in violation of Section 311(b)(3) of the Clean Water Act (the Act), as noted on the attached FINDINGS and ALLEGED VIOLATIONS FORM (Form), which is hereby incorporated by reference.

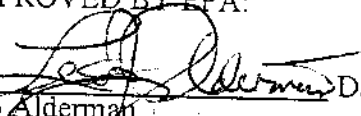
Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

The EPA finds the Respondent's conduct is subject to the discharge prohibition of Section 311(b)(3) of the Act, as described in that statute and further described by 40 C.F.R. § 110.3. The Respondent admits being subject to Section 311(b)(3) and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the Findings in the Form, and waives any objections it may have to EPA's jurisdiction.

This Expedited Settlement is binding on the parties signing below, and effective upon the Regional Judicial Officer's signature.

APPROVED BY EPA:

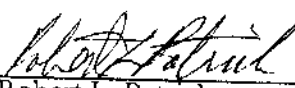
The EPA is authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 311(b) (6) (B) (i) of the Act, 33 U.S.C. § 1321(b) (6) (B) (i), as amended by the Oil Pollution Act of 1990, and by 40 C.F.R. § 22.13(b). The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$700. Respondent consents to the assessment of this penalty.

 Date: 2/3/04  
Leo Alderman  
Director  
Water, Wetlands and Pesticides Division

APPROVED BY RESPONDENT:

Name (print): Mark A Smith  
Title (print): President  
Signature: Mark A Smith

IT IS SO ORDERED:

 Date: Feb. 4, 2004  
Robert L. Patrick  
Regional Judicial Officer

This Expedited Settlement is also subject to the following terms and conditions: Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has investigated the cause of the spill, it has cleaned up the spill pursuant to federal requirements, and it has taken corrective actions that will prevent future spills. The Respondent also verifies that it has sent a certified check for \$700 payable to the "Oil Spill Liability Trust Fund" to: Kathy Robinson, Regional Hearing Clerk, 901 N. 5<sup>th</sup> Street, Kansas City, Kansas, 66101. Respondent has written on the penalty payment check "EPA" and the docket number of this case, "CWA-07-...", as seen in the right hand corner of this document.

After this Expedited Settlement becomes effective, EPA will take no further action against the Respondent for federal civil penalties for the violations of Section 311(b)(3) of the Act described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of Section 311(b)(3) of the Act or of any other federal statute or regulation. By its first signature, EPA ratifies the Findings and Alleged Violations set forth in the Form.

**DO NOT MAKE CHECK OUT TO REGIONAL  
HEARING CLERK.**

**INSTRUCTIONS ON REVERSE**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII, 901 N. 5<sup>TH</sup> STREET, KANSAS CITY, KANSAS, 66101  
OIL SPILL EXPEDITED SETTLEMENT AGREEMENT

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INSTRUCTIONS

The United States Environmental Protection Agency (EPA) has authority under Section 311 of the Clean Water Act to pursue civil penalties for oil spill violations. However, EPA encourages the expedited settlement of oil spill violations such as the violations cited in the Expedited Settlement Agreement for which these instructions are provided.

You may resolve the cited violations quickly by signing and returning the original Expedited Settlement Agreement and paying the penalty amount within 30 days of your receipt of the Expedited Settlement Agreement. EPA, at its discretion, may grant one 30-day extension for cause upon request. The Expedited Settlement Agreement is binding on EPA and the respondent. Upon signing and returning of the Expedited Settlement Agreement, a copy of which should be retained by you, EPA will take no further action against you for these violations. EPA will not accept or approve any Expedited Settlement Agreement returned more than 30 days after the date of your receipt of the settlement agreement unless an extension has been granted by EPA.

If you do not sign and return the Expedited Settlement Agreement with payment of the penalty amount within 30 days of receipt, the Expedited Settlement Agreement will be automatically withdrawn, without prejudice to EPA's ability to file an enforcement action for the above or any other violations. Failure to return the Expedited Settlement Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations, including correcting the violations that have been specifically identified in the "FINDINGS AND ALLEGED VIOLATIONS." If you decide not to sign and return the Expedited Settlement Agreement and pay the penalty EPA can pursue more conventional enforcement measures and seek penalties of up to \$11,000 per violation, up to a maximum penalty of \$27,500.

You are required in the Expedited Settlement Agreement to certify that you have corrected the violations and paid the penalty amount. The payment for the penalty amount must be in the form of a certified check payable to the "Oil Spill Liability Trust Fund" with the Docket Number referenced on the check, "CWA-07-....," as seen in the right hand corner of the Settlement Agreement.

A copy of the Settlement Agreement and certified check should be sent to:

Robert Webber  
Enforcement Coordinator, ARTD/STOP  
U.S. Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Payment of the penalty amount and Settlement Agreement should be sent sent via certified mail to:

Kathy M. Robinson  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, KS 66101

By the terms of the Expedited Settlement Agreement, you waive your opportunity for a hearing pursuant to Section 311 of the Clean Water Act. EPA will treat any response to the proposed Expedited Settlement Agreement, other than acceptance of the settlement offer, as an indication that the recipient is not interested in pursuing this expedited settlement procedure.

If you have any questions, you may contact EPA Region 7 at (913) 551-7125.

## FINDINGS AND ALLEGED CIVIL VIOLATIONS

1. Vance Brothers, Inc., is a corporation organized under the laws of Missouri with a place of business located at 5201 Brighton Ave., Kansas City, Missouri 64130-3196. The Respondent is a person within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. §1321(a)(7).

2. Respondent is the owner of an onshore facility, a truck, within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. §1321(a)(10), which was located at Victoria Street in Lee's Summit, Missouri ("facility"), on April 19, 2002.

3. Section 311(b)(3) of the Act prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

4. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. §1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. §110.3 to include discharges of oil that cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines.

5. On April 19, 2002, Respondent discharged 200 gallons of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. §1321(a)(1), and 40 C.F.R. §110.1, from its facility into or upon an unnamed tributary of Prairie Lake Creek, Lake Jacomo, East Fork Little Blue River, Missouri River, and the Mississippi River, and adjoining shorelines.

6. The unnamed tributary of Prairie Lake Creek, Lake Jacomo, East Fork Little Blue River, Missouri River, and the Mississippi River, and adjoining shorelines are navigable waters of the United States as defined in Section 502(7) of the Act, 33 U.S.C. §1362(7), and 40 C.F.R. §110.1.

7. Respondent's April 19, 2002, discharge of oil from its facility caused a sheen upon or discoloration of the surface of the unnamed tributary of Prairie Lake Creek, Lake Jacomo, East Fork Little Blue River, Missouri River, and Mississippi River, and adjoining shorelines, and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. §110.3, which implements Sections 311(b)(3) and (b)(4) of the Act.

8. Respondent's April 19, 2002, discharge of oil from its facility into or upon the unnamed tributary of Prairie Lake Creek, Lake Jacomo, East Fork Little Blue River, Missouri River, and the Mississippi River, and adjoining shorelines in a quantity that has been determined may be harmful under 40 C.F.R. §110.3 violated Section 311(b)(3) of the Act. Pursuant to Section 311(b)(6)(B)(i) of the Act, and 40 C.F.R. § 19.4, the Respondent is liable for civil penalties of up to \$11,000 per violation, up to a maximum of \$27,500.

IN THE MATTER OF Vance Brothers, Inc., Respondent  
Docket No. CWA-07-2004-0039

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited SPCC Settlement Agreement was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:


Kristina Kemp  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Vance Bros Inc.  
5201 Brighton  
P.O. Box 300107  
Kansas City, Missouri 64130

US. Coast Guard  
Finance Center (OGR)  
1430A Kristina Way  
Chesapeake, VA 23326

Dated: 2/4/04

  
Kathy Robinson  
Regional Hearing Clerk